

City of Detroit


CITY COUNCIL

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TO: The Honorable Detroit City Council

FROM: David D. Whitaker 
City Council Research and Analysis Division Staff

DATE: November 1, 2007

RE: Amendment to Truancy Ordinance, Section 33-3-4

Pursuant to Council President Pro Tem Member Monica Conyers' request, the City Council Research and Analysis Division (RAD) has drafted an ordinance which would make it unlawful for children under 16 years of age who are enrolled in a day school program, to loiter, idle or wander in certain retail establishments or any other public place except as permitted under the ordinance.

The proposed amendment to Chapter 33 of the 1984 Detroit City Code, Minors, Article III, *Regulation of Minors on Public Streets, at Public Places, and in Private Establishments*, specifically amends Section 33-3-4. In 1996, when the Section was last amended, "**or any other public place**" was dropped from the prohibited places.

The necessity of adding "or any other public place" back in is to prohibit children under 16 years of age from being truant from school based on being in public places not specifically listed in the ordinance. These areas could include loitering outside on school grounds or on street corners. This will tremendously aid in the enforcement of such children from skipping school without a legitimate reason.

RAD had constitutional concerns regarding only listing one or two exceptions to not being in school, now that the "or any other public place" has been reinserted in the draft. Therefore, RAD patterned the list of exceptions after an ordinance that was found to be constitutional in California.¹

RAD requests that this draft be referred to the Law Department for further review and approval as to form.

¹ *Harrahill et al, v City of Monrovia*, 104 Cal. App. 4th 761, 2002

SUMMARY

This proposed ordinance amends Chapter 33 of the 1984 Detroit City Code, *Minors, Article III, Regulation of Minors on Public Streets, at Public Places, and in Private Establishments; Responsibility for Violations*, by amending Section 33-3-4 which makes it unlawful for any child under sixteen (16) years of age or enrolled in a day school program other than a college or university, to loiter, idle or wander in certain retail establishments or any other public place except as permitted under this ordinance.

BY COUNCIL MEMBER _____:

AN ORDINANCE to amend Chapter 33 of the 1984 Detroit City Code, *Minors, Article III, Regulation of Minors on Public Streets, at Public Places, and in Private Establishments; Responsibility for Violations*, by amending Section 33-3-4 which makes it unlawful for any child under sixteen (16) years of age or enrolled in a day school program other than a college or university, to loiter, idle or wander in certain retail establishments or any other public place except as permitted under this ordinance.

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT THAT:

Section 1. Chapter 33 of the 1984 Detroit City Code, *Minors, Article III, Regulation of Minors on Public Streets, at Public Places, and in Private Establishments; Responsibility for Violations*, be amended by amending Section 33-3-4 to read as follows:

CHAPTER 33 MINORS

**ARTICLE III. REGULATION OF MINORS ON PUBLIC STREETS, AT
PUBLIC PLACES, AND IN PRIVATE ESTABLISHMENTS; RESPONSIBILITY
FOR VIOLATIONS**

- 1 **Sec. 33-3-4.** Presence of persons under sixteen years of age in restaurants,
2 theaters, bowling alleys, or other public places of amusement, ~~or~~
3 entertainment or other public places during school hours prohibited.
- 4 It shall be unlawful for any child under sixteen (16) years of age or enrolled in a day
5 school program other than a college or university, to ~~remain~~ loiter, idle or wander in any
6 restaurant, lunchroom, candy store, confectionery, bowling alley, ice cream parlor,
7 theater, ~~or other~~ public place of amusement or entertainment, or any other public place
8 except when:

1 1. It is part of an organized school program during the school hours of such child in
2 which that child has permission to leave the school campus for lunch or school
3 related activity; or

4 2. The child is accompanied by his or her parent, guardian, or other adult person
5 having the care or custody of the child; or

6 3. The child is on an emergency errand directed by his or her parent or guardian or
7 other adult person having care or custody of the child; or

8 4. The child is going or coming directly from or to their place of gainful
9 employment or to or from a medical appointment;

10 5. The child is authorized to be absent from his or her school pursuant to applicable
11 State or federal law.

12 **Section 2.** All ordinances, or parts of ordinances, that conflict with this ordinance
13 are repealed.

14 **Section 3.** This ordinance is hereby declared necessary to preserve the public peace,
15 health, safety, and welfare of the People of the City of Detroit.

16 **Section 4.** In the event that this ordinance is passed by a two-thirds (2/3) majority
17 of the City Council Members serving, it shall be given immediate effect and become
18 effective upon publication in accordance with Section 4-116 of the 1997 Detroit City
19 Charter. Where this ordinance is passed by less than two-thirds (2/3) majority of the City
20 Council Members serving, it shall become effective no later than thirty (30) days after
21 enactment in accordance with Section 4-115 of the 1997 Detroit City Charter.

1 Approved as to form:

2 _____

3 John E. Johnson, Jr.

4 Corporation Counsel